

## Department of Energy

## § 600.111

CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.”

*Suspension* means an action by DOE that temporarily withdraws DOE sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the DOE. Suspension of an award is a separate action from suspension under DOE regulations implementing E.O.’s 12549 and 12689, “Debarment and Suspension” (see 10 CFR part 1036).

*Termination* means the cancellation of DOE sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

*Third party in-kind contributions* means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

*Unliquidated obligations*, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

*Unobligated balance* means the portion of the funds authorized by DOE that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

*Unrecovered indirect cost* means the difference between the amount awarded and the amount which could have been awarded under the recipient’s approved negotiated indirect cost rate.

*Working capital advance* means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

### § 600.102 Effect on other issuances.

For awards subject to this subpart, all administrative requirements of codified program regulations, program

manuals, handbooks and other non-regulatory materials which are inconsistent with the requirements of this subpart shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 600.4.

### § 600.103 Deviations.

The deviation provisions of § 600.4 apply to this subpart.

### § 600.104 Subawards.

Unless sections of this subpart specifically exclude subrecipients from coverage, all DOE recipients, including State, local and Indian tribal governments, shall apply the provisions of this subpart to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, or other non-profit organizations organizations. Thus, this subpart is applicable to those types of organizations regardless of the type of recipient receiving the primary award. State and local government subrecipients are subject to the provisions of 10 CFR part 600, subpart C, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.” For-profit subrecipients are subject to the provisions of 10 CFR part 600, subpart D, Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations.

[59 FR 53266, Oct. 21, 1994, as amended at 68 FR 50650, Aug. 21, 2003]

## PRE-AWARD REQUIREMENTS

### § 600.110 Purpose.

Sections 600.111 through 600.117 prescribe forms and instructions and other pre-award matters to be used in applying for DOE awards.

### § 600.111 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance, the DOE shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or

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cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, “substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.” Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) Public Notice and Priority Setting. DOE will, whenever practical, notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

### § 600.112 Forms for applying for Federal assistance.

(a) General. An application for an award shall be on the form or in the format specified in a program rule, in the solicitation, or in these regulations (see § 600.10). When the SF-424 form is not used, DOE shall indicate whether the application is subject to review by the State under E.O. 12372. DOE may also require applicants to complete—

(1) The Notice of Energy RD&D Project (DOE Form 538) if the application is for a research, development, or demonstration project; or

(2) The Federal Assistance Management Summary Report (DOE F 4600.5) or the Federal Assistance Milestone Plan (DOE F 4600.3) as a baseline plan in accordance with the terms and conditions of award if required by program rule or the solicitation. If a solicitation other than a program rule requires the use of one or both of these forms, the solicitation shall contain an explanation of how the information to be provided relates to the objectives of the program.

(b) Budgetary information. DOE may request and the applicant shall submit the minimum budgetary information necessary to evaluate the costs of the proposed project.

(1) Applicants for research awards, other than State, local, or Indian tribal

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governments, will use DOE budget forms ERF 4620.1 and ERF 4620.1A. All other applicants shall use the budget formats established in the solicitation or program regulations.

(2) DOE may, subsequent to receipt of an application, request additional information from an applicant when necessary for clarification or to make informed preaward determinations.

(c) Continuation and renewal applications. DOE may require that an application for a continuation or renewal award (see § 600.26 (b) and (c)) be made in the format or on the forms authorized by paragraphs (a) and (b) of this section.

[59 FR 53266, Oct. 21, 1994, as amended at 61 FR 7165, Feb. 26, 1996]

### § 600.113 Debarment and suspension.

Recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.’s 12549 and 12689, “Debarment and Suspension,” 10 CFR part 1036. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

### § 600.114 Special award conditions.

(a) If an applicant or recipient has a history of poor performance, is not financially stable, has a management system that does not meet the standards prescribed in this subpart, has not conformed to the terms and conditions of a previous award, or is not otherwise responsible, DOE may impose additional requirements as needed, without regard to the deviation provisions of § 600.4. Such applicant or recipient will be notified in writing as to the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, and the time allowed for completing the corrective actions. Reconsideration of the additional requirements may be requested at any time. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

(b) A recipient may place a special restrictive condition, as specified in